

#### Members

Sen. Robert Jackman, Chairperson  
Sen. Johnny Nugent  
Sen. Brandt Hershman  
Sen. Allie Craycraft  
Sen. James Lewis  
Sen. Larry Lutz  
Rep. Terry Goodin  
Rep. Dale Grubb  
Rep. Markt Lytle  
Rep. Robert Cherry  
Rep. William Friend  
Rep. Richard Mangus



## INTERIM STUDY COMMITTEE ON AGRICULTURE AND ANIMAL ISSUES

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Authority: Legislative Council Resolution 01-2  
(Adopted June 7, 2001)

### MEETING MINUTES<sup>1</sup>

**Meeting Date:** October 12, 2001  
**Meeting Time:** 10:00 A.M.  
**Meeting Place:** State House, 200 W. Washington  
St., Room 130  
**Meeting City:** Indianapolis, Indiana  
**Meeting Number:** 3

**Members Present:** Sen. Robert Jackman, Chairperson; Sen. Brandt Hershman;  
Sen. James Lewis; Sen. Larry Lutz; Rep. Dale Grubb; Rep.  
Robert Cherry; Rep. William Friend; Rep. Richard Mangus.

**Members Absent:** Rep. Markt Lytle; Rep. Terry Goodin; Sen. Allie Craycraft; Sen.  
Johnny Nugent.

Senator Jackman, the Chair, called the meeting to order at approximately 10:00 a.m.

The Chair announced that this would be the last meeting of the Committee for the interim and that several recommendations. The Chair also stated that Committee would hear testimony and discuss SB 68-2001, a bill regarding the assessment of agricultural land. (A copy of SB68-2001 can found in Exhibit 1.)

#### Discussion of SB 68-2001

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<sup>1</sup> Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

The Chair began the discussion of SB 68-2001 by stating that the bill changes the assessment of certain classified farmland to the same assessment rate as classified forests, one dollar per acre. The Chair then turn to Rep. Cherry for further discussion.

Representative Cherry said that farmland preservation is an important issue, and bills similar to SB68-2001 are attempts to address the issue. He said that the bill does not take property rights away from farmers and that it stresses preservation. He also noted that if a parcel of farmland is withdrawn from the preserved status offered in the bill, it would be subject to up to 10 years of back property taxes.

The Chair then asked Bob Kraft of the Indiana Farm Bureau to present testimony.

***Bob Kraft, Indiana Farm Bureau***

(A copy of Mr. Kraft's testimony can found in Exhibit 2.)

Mr. Kraft described the bill and stated that it addressed two of the Farm Bureau's top priorities: 1) farmland preservation; and 2) property tax relief for farmers. On the topic of farmland preservation, Mr. Kraft said that the Farm Bureau supported the recommendations of 1999 Final Report of the Governor's Hoosier Farmland Preservation Task Force and he felt that SB 68-2001 was consistent with those recommendations. Mr. Kraft said that the Farm Bureau has long been an advocate of a total restructuring of Indiana's taxes.

Responding to a question about other states' programs to preserve farmland, Mr. Kraft stated that one of the benefits of the proposed bill is that it would preserve property rights without a direct cost to the state. In response to a question, Mr. Kraft said that using Heritage Trust Funds to buy property removes farm land from the property tax rolls. He suggested that it might be possible to use Heritage Trust Funds to replace the property taxes paid by farmers enrolled in the certification program.

The Chair then said that the Committee would discuss legislative proposals and vote on committee recommendations.

**PD 3241, Seed Arbitration Council<sup>2</sup>**

The Chair introduced PD 3241 by stating that the bill originated through his discussions with members of the seed industry. The bill adds a member to the Seed Arbitration Council that has knowledge in patent or intellectual property law as it relates to seeds. The Chair then asked Larry Nees to discuss his reservations about the bill.

***Larry Nees, Seed Administrator, Office of the Indiana State Seed Commissioner***

Mr. Nees testified that the Seed Arbitration Council was established in statute to address disputes over seed's performance in the field. He said that the law itself, rather than the Council's make-up, would need to be amended before the Council could begin to resolve issues related to patents and intellectual property.

The Chair asked Mr. Nees if the law needed to be changed in order to address some of the patent issues. Mr. Nees said he does not know how many potential cases might come forward. He told the Committee that the Seed Arbitration Council has not been required to

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<sup>2</sup>See Exhibit 3.

meet since its inception in 1988. He reiterated the fact that the current mandate of the Council would not include patent disputes.

Representative Grubb then stated that he would like to move the legislation forward as a means to get some of the disputes and issues that the Committee has discussed during the 2001 interim resolved in arbitration hearings rather than in the courts.

The Committee then resolved to recommend the concepts behind PD 3241 with the recommendation that further discussion be pursued to address expanding the authority of the Seed Arbitration Council to address some of the Committee's concerns with seed contracts. This recommendation passed on a vote of 7-1

#### PD 3280, Seed Contracts<sup>3</sup>

The Chair began the discussion of PD 3280 by asking staff to carefully explain the proposal's contents.

The Chair then asked Representatives Grubb and Friend to discuss PD 3280. Representative Grubb began by thanking all those who had worked on the developing the proposal. Representative Grubb said that he felt it was his obligation to level the playing field for his constituents in the 42<sup>nd</sup> House district. He said that he did not think it would hurt business concerns and that the bill help farmers. Representative Friend stated that the Committee received lots of input on the bill and that the bill attempted to address the concerns raised. He noted that the bill purposely left out the issue of farmer's saving of seed. He also said that the bill addressed important court issues which would prevent suits against Indiana farmers from being held in out-of-state venues. He said that he thought the bill would serve as a template for legislation in other states.

#### ***Charlie Kirk, DowAgro Sciences***

The spokesperson for DowAgro Sciences said that they support the Committee on the policies it was trying to promote, however, DowAgro did not feel that PD 3280 was successful in addressing the Committee's concerns. He said the PD left a number of unanswered questions. Mr. Kirk pointed out two areas with which he had particular concerns. The first area dealt with the designation of a third part to collect seed samples. He said that while his company believed that farmers had the right to collect matching samples, there was concern over what might happen if there was a problem in obtaining the testing samples. The second area of concern dealt with the types of contracts that included in the bill. He stated producer agreements and seed contracts are very complicated and there are many types of contract involved and many have to do with the technology licenses.

In response to a question from Sen. Jackman, Mr. Kirk said that he thought the proposal might hurt DowAgro's ability to do business in Indiana.

#### ***Travis Brown, Monsanto Corporation***

Mr. Brown stated that his company was in accord with many of the bill's provisions; however, Monsanto has concerns over whether the bill would impact the company's right to patent. Mr. Brown said that the bill could influence his company's use of certain limited use patents. He state that the provision could affect his company's ability to do business in

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<sup>3</sup>See Exhibit 4.

the state.

Rep. Grubb then discussed some of his concerns with the seemingly monopolistic practices of Monsanto and asked Mr. Brown if his company had changed its behavior. He then stated that he did not thin certain practices were fair to the American farmers. Rep. Grubb stated that patents are by nature temporary, allowing a sufficient time frame for holders to collect rents and profits. He noted that the patent system provides benefits to everyone if they are used fairly.

Rep. Mangus then asked Mr. Brown if the bill would influence Monsanto's decision to sell seeds in Indiana. Mr. Brown stated that the question would required consideration and would depend on how the bill's language was interpreted.

***Mark Palmer, Pioneer Hi-Bred***

Mr. Palmer began his testimony by stating some of Pioneer's concerns with bill. He noted that seed companies often need to enter farmer's fields for production quality assurance purposes. He expressed concerns that the sampling provisions in the bill might be too broad. Mr. Palmer also noted that the bill's labeling requirements could make it difficult to move seed from place to place quickly.

Mr. Palmer further stated that due to the range of concerns with the bill, he suggested that more thought be given to developing the Seed Arbitration Board's authority. He then said that he did not what to see the state isolate itself with more burdensome laws.

***Tom Hopper, Indiana Seed Trade Association<sup>4</sup>***

Mr. Hopper began his testimony by saying that he was speaking for the over 120 members of the Indiana Seed Trade Association, as representative of Beck's Hybrids, and as an Indiana citizen. Mr. Hopper then gave a detailed overview of the history of intellectual property regarding plant species. He noted that while farmers have traditionally been able to save back seed for their own use, the federal government affords patent protection to plants and seeds as a means of developing and encouraging innovation.

In response to a question, Mr. Hopper said that he felt that if farmers were able to save their seeds, his company would go out of business.

The Chair then recognized two amendments to the bill. Both amendments were taken by consent.

On lines 17 and 20 of page 2 the word "matching" be replaced with the word "split."

The PD was also amended on line 40, page 3 to add a Section 17 that states:

The provisions of the chapter are severable as provided in IC 1-1-1-8.

The PD was amended on line 5, page 4 a new section 3 to state:

The provisions of the chapter are severable as provided in IC 1-1-1-8.

After a motion and a second, the vote was called. On a vote of 5-2, the bill did not pass. A recommendation requires the majority of the Committee's members offering a favorable vote.

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<sup>4</sup> See Exhibit 5.

PD 3229, Farmer's Saving of Seed<sup>5</sup>

Rep. Friend spoke briefly on the proposed legislation. He stated that farmers have asked to continue to work to make the current situation more fair to farmers. He said that he was not going to ask for a vote on the bill.

Rep. Grubb noted that even if the bill were passed, a pending U.S. Supreme Court ruling could make the bill's provisions moot.

A vote was not taken on the bill.

PD 3291, Use of MTBE as Gasoline Additive<sup>6</sup>

Rep. Friend then presented PD 3291. Rep. Friend stated that the bill addressed the concerns over using MTBE as a fuel oxygenator. He said that the bill came about through the Committee's first meeting and in response to the actions taken by others states, including Illinois, Michigan, and others. He also noted that the petroleum industry stood behind the bill.

The Chair then took testimony on the bill.

***Stan Pinegar, Indiana Petroleum Council***

Mr. Pinegar stated that he appreciated working with Rep. Grubb and Rep. Friend on the bill. He stated that his only concern with the bill was its effective date. He asked that the date be changed to July 24, 2004 to make the bill consistent with the Illinois' law. He also asked the Committee to note the current price of gasoline.

On the advice of counsel, the Committee consented to amending the bill to become effective after July 23, 2004.

The bill's recommendation was passed on a vote of 7-0.

PD 3295, Crimes on food Processing Facilities<sup>7</sup>

The Committee then discussed PD 3295. The concerns addressed in the bill were brought to the Committee by Maple Leaf Farms, the world's largest producer and growers of ducks. As a point of clarification, the Committee consented to amend the bill to clarify the definition of a food processing facility (See Exhibit 8.5).

The recommendation passed with a vote of 7-0.

Resolution on Bioterrorism<sup>8</sup>

Senator Jackman and Rep. Grubb presented a resolution asking the Legislative Council

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<sup>5</sup>See Exhibit 6.

<sup>6</sup>See Exhibit 7.

<sup>7</sup>See Exhibit 8.

<sup>8</sup>See Exhibit 9

adopt a resolution encouraging the President of the United States to appoint a specialist within the Office of Homeland Security to help safeguard agriculture and the nation's food supply from terrorism. The recommendation passed on a 7-0 vote.

Senator Jackman then distributed a press release<sup>9</sup> on National Biosecurity Resource Center for Animal Health at Purdue University.

#### Final Report

The Committee then discussed the Committee's final report and recommendations. After reviewing a draft of the final report the Committee consented to accept the changes presented in the meeting. The final report was adopted on a vote of 7-0.

Sen. Jackman then thanked the members for their work. There being no other business before the Committee, the Committee was adjourned.

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<sup>9</sup>See Exhibit 10